

## Subdivision Regulations Section 2.00 Application Process

### SECTION 2.00: APPLICATION PROCESS.

2.01 PRELIMINARY CONCEPTUAL CONSULTATION. This meeting shall be directed at a review of the basic concept of the proposal and suggestions, which might be of assistance in resolving problems with meeting requirements during final consideration. The Board and applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the Master Plan. The presentation to the Board of new surveys, engineering plans or similar materials shall require the Design Review process to be followed, so the Chairman must be careful to keep these discussions at a general level. Typically, maps from the Master Plan, tax maps, county soil survey maps and the like are acceptable levels of generality upon which to base these discussions. Such consultation shall not bind either the applicant or the Board, and statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. Such discussion may occur without the necessity of giving formal public notice, but such discussions may occur only at formal meetings of the Board. Preliminary conceptual consultation meetings are strictly optional to the applicant.

### 2.02 DESIGN REVIEW.

(A) The Board and applicant may engage in non-binding discussions beyond conceptual and general discussions, addressing more specific design, planning and engineering details, provided that the design review may proceed only after formal public notice is provided. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. The applicant shall pay appropriate public notice fees as specified in §2.06(B), and shall provide all required materials and information required for public notice per §2.10 and §2.11. Design Review meetings are strictly optional to the applicant, but such meetings can be helpful in identifying and resolving problems in an application prior to major design investments by the applicant.

(B) The Design Review meeting is especially appropriate for receiving comments on the general road plan of a Major Subdivision per §2.16(A), and for reviewing the concepts for an Open Space Development subdivision.

2.03 BOUNDARY LINE ADJUSTMENT. The application for a Boundary Line Adjustment shall be made to the Board, and shall follow the process specified in §2.06 through §2.20 of this Regulation. Approved plans shall be signed and recorded at the Rockingham County Registry of Deeds. > class="Section1"

(A) The applicant shall submit to the Board the following:

(1) Correctly completed application form, signed by the owner.

(2) Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.

(3) Payment of fees for administration per §2.06(A)(1), and public notice per §2.06(B)(2).

(4) three paper copies of final plans complying with all requirements of §4.00.

(5) copy of application for State Subdivision approval if the application affects the location or setback of an existing or proposed septic system.

(B) The Board will generally use the Checklist for Application Completeness; Boundary Line Adjustment Application, provided in §6.00, to ensure completeness prior to accepting the application. The applicant is encouraged to use this checklist to ensure the submittal contains all needed information and materials.

(C) Time and budget permitting, the Board will generally have written reviews of the application prepared by a professional planner, and a Professional Engineer where appropriate. Where possible, these written reviews should be prepared and available one week prior to the meeting at which application acceptance will be considered. The reviews will address both application completeness and compliance with applicable laws, regulations and ordinances. Additional reviews may be prepared in the case of applications, which take more than one meeting. Applicants may pick up copies of the written reviews at the Town Offices as soon as they are available to the Board.

(D) Board members should visit the site prior to the meeting to familiarize themselves with the site, although individual Board members should not discuss the application with the applicant except at the Board's meetings. The Board may, by motion, require a site visit prior to application approval.

2.04 MINOR SUBDIVISION. The application for a Minor Subdivision shall be made to the Board, and shall follow the process specified in §2.06 through §2.20 of this Regulation. Approved plans shall be signed and recorded at the Rockingham County Registry of Deeds. > class="Section2"

(A) The applicant shall submit to the Board the following:

(1) Correctly completed application form, signed by the owner.

(2) Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.

(3) Payment of fees for administration, per §2.06(A)(2), and public notice, per §2.06(B).

(4) three paper copies of final plans complying with all requirements of §4.00.

(5) Documentation that the following applications and correspondence has been submitted: letters to the appropriate Town officials regarding local permits and reviews, for issues including but not limited to connection to the municipal water and/or sewer systems, connection to the municipal storm water drainage system, and emergency services review.

(B) The Board will generally use the Checklist for Application Completeness; Minor Subdivision Application, provided in §6.00, to ensure completeness prior to accepting the application. The applicant is encouraged to use this checklist to ensure the submittal contains all needed information and materials.

(C) Time and budget permitting, the Board will generally have written reviews of the application prepared by a professional planner, and a Professional Engineer where appropriate. Where possible, these written reviews should be prepared and available one week prior to the meeting at which application acceptance will be considered. The reviews will address both application completeness and compliance with applicable laws, regulations and ordinances. Additional reviews may be prepared in the case of applications, which take more than one meeting. Applicants may pick up copies of the written reviews at the Town Offices as soon as they are available to the Board.

(D) Board members should visit the site prior to the meeting to familiarize themselves with the site, although individual Board members should not discuss the application with the applicant except at the Board's meetings. The Board may, by motion, require a site visit prior to application approval.

2.05 MAJOR SUBDIVISION. The application for a Major Subdivision shall be made to the Board, and shall follow the process specified in §2.06 through §2.20 of this Regulation. Approved plans shall be signed and recorded at the Rockingham County Registry of Deeds.

(A) The applicant shall submit to the Board the following:

(1) Correctly completed application form, signed by the owner.

(2) Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.

(3) Payment of fees for administration, per §2.06(A)(2), and public notice, per §2.06(B).

(4) Copies of plans, as follows:

(a) one mylar plan, at a scale of 1:12,000, showing the original lot's boundaries and proposed road layout, and depicting the surrounding area and roads sufficient to locate the mylar plan on the Town Base Map. This plan is to be used to evaluate the road function and layout, per §2.16(A).

(b) three paper copies of plans indicating existing property boundaries per §4.10(A), existing conditions per §4.10(B), municipal and zoning district boundaries per §4.10(C), and the 100-year floodplain per §4.10(E).

(c) three paper copies of sketched plans, which show conceptual plans for the proposed conditions on the property, per §4.10(F). These plans shall be used by the Board to evaluate the proposal with respect to its intermediate decisions on road function and layout, and scattered or premature development.

(5) Documentation that the following applications and correspondence has been submitted:

(a) letters to the appropriate Town officials regarding local permits and reviews, for issues including but not limited to connection to the municipal water and/or sewer systems, connection to the municipal storm water drainage system, and emergency services review.

(B) The Board will generally use the Checklist for Application Completeness; Major Subdivision Application, provided in §6.00, to ensure completeness prior to accepting the application. The applicant is encouraged to use this checklist to ensure the submittal contains all needed information and materials.

(C) Time and budget permitting, the Board will generally have written reviews of the application prepared by a professional planner, and a Professional Engineer where appropriate. Where possible, these written reviews should be prepared and available one week prior to the meeting at which application acceptance will be considered. The reviews will address both application completeness and compliance with applicable laws, regulations and ordinances. Additional reviews may be prepared in the case of applications, which take more than one meeting. Applicants may pick up copies of the written reviews at the Town Offices as soon as they are available to the Board.

(D) Board members should visit the site prior to the meeting to familiarize themselves with the site, although individual Board members should not discuss the application with the applicant except at the Board's meetings. The Board may, by

motion, require a site visit prior to application approval.

2.06 FEES. In accordance with RSA 676:4, I(g), the applicant shall pay the following fees to compensate the Town for its expenses in processing, noticing and reviewing each application:

(A) Administration: (note: amended October 12, 1999)

(1) Lot Line Adjustment: \$50

(2) Major Subdivision: \$400.00 plus \$150/lot

(3) Minor Subdivision: \$200.00 plus \$50/lot

(B) Public Notice:

(1) \$30.00 per newspaper notice; plus

(2) \$5.00 per abutter or other party notified.

(C) Recording: The applicant shall reimburse the Town the cost of recording at the Rockingham County Registry of Deeds, with specific amounts as set by the Register of Deeds.

(D) Other costs incurred by the Board in reviewing the application, as limited in §5.02, may be passed through to the applicant by the Board.

2.07 COMPLETE APPLICATION. For the Board to have authority to approve an application, the applicant must provide a complete application per RSA 676:4, I(b). Specific lists of materials required to comprise a complete application submittal are listed, by type of application, in §2.03, §2.04, and §2.05. Applications which appear to the staff to be complete shall be scheduled on the next available Board agenda for consideration.

2.08 SUBMITTAL OF APPLICATION MATERIALS. All materials to be submitted to the Board for consideration shall be submitted prior to the meeting so that Board members, the public, and staff may have sufficient opportunity to review the application without unnecessarily rushing the review and/or delaying the proceedings of the meeting. The following shall apply:

(A) Application Acceptance. In accordance with RSA 676:4, I(b), all materials required to constitute a complete application shall be submitted to the Board at least 15 days prior to the meeting at which it will be considered for application acceptance, except that this shall be increased to 21 days when it is determined that there may be a potential regional impact per §2.11.

(B) Other Public Hearings. New materials shall be submitted to the Board at least 14 days prior to a meeting when a new public notice is required.

(C) Continued Meetings. When consideration of an application is continued and new information is required, the Board shall specify the deadline for filing this new information. In no case shall it be less than one day prior to the meeting. The deadline shall be stated in the motion to continue.

## 2.09 APPLICATION FOR OTHER PERMITS/APPROVALS.

(A) The Board shall not grant a final approval to an application until all other government permits and approvals are obtained. The only exception to this requirement shall be when State or Federal permits require prior local approval. Applicants are advised to apply early for these other approvals to avoid unnecessary delays in obtaining final approval of the Subdivision application, but applicants with Major Subdivisions are advised to delay applications to the State until general design guidance has been provided by the Board.

(B) Concurrent Application. Where the proposed development requires approval under both the Subdivision Regulations and the Site Plan Review Regulations, a concurrent application may be required by the Board. The applicant shall provide all materials required for complete applications for both regulations (see Subdivision Regulations §2.07 and Site Plan Review Regulations §2.07), except that the public notice fees shall not be paid twice.

2.10 PUBLIC NOTICE. Public notice pursuant to RSA 676:4, I(d) shall be required for all applications. The public notice shall identify the property owner, the location, and a general description of the scope and purpose of the proposal.

(A) Public notice shall be required for the following:

- (1) design review meetings;
- (2) meetings at which an application is considered for acceptance; and
- (3) meetings at which a public hearing is conducted.

(B) Public notice shall be mailed to the applicant, the applicant's authorized representative, any professional (surveyor, engineer, architect, soil scientist) whose stamp and signature appear on any of the plans or other materials submitted as part of the application package, and each abutter at least 10 days prior to the meeting for which the notice is required. Such notification shall be mailed by certified mail.

(1) Using the Abutters List form provided in §6.00 of this Regulation, the applicant shall prepare a list of abutters using Town records no sooner than 5 days prior to the submittal of the application; and

(2) The applicant shall provide three adhesive mailing labels for each party on the abutters list, including the applicant and authorized representative. The labels shall be no larger than 1" by 2.75" in size.

(C) Public notice shall be posted at the Town Offices at least 10 days prior to the meeting.

(D) Public notice for Minor Subdivision and Major Subdivision applications, but not for Boundary Line Adjustment applications, shall be published in a newspaper of general circulation. This notice shall be sent to the newspaper at least 10 days prior to the meeting.

(E) Continuation of a meeting or public hearing shall not require new public notice provided that, at the prior meeting or hearing, the Board shall state the location, date, and time at which the continued session shall resume per RSA 676:4, I(d).

2.11 REGIONAL NOTICE. In accordance with RSA 36:54-58, applications which might have a regional impact shall require additional public notice, and by State law require additional time for public notice.

(A) Determination of potential regional impact shall be found only for applications defined as Major Subdivisions, and

further which meet any of the following criteria:

- (1) Any portion of the property is located within 500 feet of the border of the Town of Newmarket;
- (2) The proposal involves 20 or more residential units;
- (3) The proposal involves property located on the shore of Great Bay; or
- (4) other as the Board may reasonably determine.

(B) Notice shall be sent by certified mail 14 days in advance of the scheduled public hearing to the Strafford Regional Planning Commission (for impacts in Durham or Lee) and/or the Rockingham Planning Commission (for impacts in Epping, Newfields, Stratham, Greenland or Newington), and to each town reasonably likely to be affected, with each governmental entity to be considered an abutter for purposes of offering testimony and computing public notice fees. > class="Section3"

**2.12 APPLICATION ACCEPTANCE.** Before an application is reviewed by the Board, it must be accepted by a formal vote of the Board. The applicant shall attend this meeting to ensure that questions can be answered and issues clarified as necessary. Per RSA 676:4, I(b), the Board shall vote to accept the application only if determines that the application is complete per this Regulation. Upon acceptance, review of the application may proceed. If an application is not accepted, the Board may proceed with Design Review discussions per §2.02. The Design Review meeting may be continued to another date and time for Application Acceptance without further public notice.

**2.13 APPLICANT'S PRESENTATION.** Following application acceptance, the applicant shall make a brief, general presentation to the Board and audience. This presentation should include a brief description of the proposed project and a general description of the design, layout, and so forth. The applicant may list specific issues of concern which they would like the Board to discuss during deliberations, but this forum is only intended to ensure general familiarity with the application. The applicant is solely responsible for bringing any audio-visual materials or equipment needed. The Chairman shall have sole authority to limit the time taken for this presentation to keep the meeting moving, and applicants should plan on 10 minutes or less for most applications. For applications, which are reviewed over a series of meetings, this presentation may be appropriate at the beginning of each session.

**2.14 PUBLIC HEARING.** The Board shall open a public hearing following application acceptance and the applicant's presentation. The purpose shall be to solicit public input, comments, questions and concerns. The Chairman may temporarily suspend public comment during the public hearing so that the Board may deliberate, vote of waivers, and so forth. The public hearing may be continued if additional meetings are necessary, provided that the Board follows the continuation procedures specified in §2.10(E). Only when all pertinent, new public input is complete shall the Chairman close the public hearing. The applicant shall be responsible for attending the public hearing, including all continuations, to ensure that questions can be answered and issues clarified as needed.

**2.15 DELIBERATION.** The Board shall deliberate as necessary to determine the appropriate decision. The deliberation does not necessarily follow the public hearing, and may be interspersed with the public hearing, or may occur prior to the public hearing. This is the appropriate forum for the applicant and Board to discuss specific issues. The Board should keep in mind, however, the purpose of the public hearing, and therefore should generally defer decisions until after relevant public input is received.

**2.16 INTERMEDIATE DECISIONS.** Deliberations for each application will be unique, but there are several intermediate decisions, which may be particularly applicable in certain cases:

- (A) Major Subdivision Road Function and Layout. For Major Subdivision applications only, the Board shall first review the

general function and layout of the proposed or potential roads on the entire property. Final plans for Major Subdivisions should not be prepared until after this review has taken place.

(1) Purpose. The importance of this step cannot be understated. Establishing the layout of roads and property boundaries has an important impact on the character and function of the community. Roads can detract from the neighborhood, or they can enhance it. Traffic circulation and safety can be enhanced or impaired in the neighborhood and in affected surrounding areas. New development can relate in a positive or negative manner to the existing developments nearby. Among the most influential and long lasting determinants of these functions are the establishment of the road network and property boundaries, and for this reason the general proposal should be reviewed and generally approved before further details are worked out.

(2) This decision shall be based on the Board's initial opinion regarding the proposal with respect to the Road Design Objectives described in §3.02(A), including traffic function, road layout, scale and aesthetics. Of particular importance at this point of the review is an assessment of the general pattern of the road network, how well it fits into and connects with the adjacent road network, how the road design will affect its traffic functions, how the road design fits into the features of the site, and how the transportation functions will relate to the land use functions when the site is fully developed. >  
class="Section4"

(3) If the applicant so chooses, this discussion and a tentative decision can occur during a Design Review meeting, per §2.02. The decision of the Board must be confirmed following application acceptance since the Design Review is non-binding by State law. The advantage to using the Design Review process for this purpose would be to permit the applicant to receive feedback on the general road plan prior to investing time and money in the final design, hopefully resulting in monetary savings and quicker approval of the application. If the Design Review meeting is not used for this purpose, the Board shall not review and approve a Major Subdivision application in one meeting. It shall proceed through this intermediate decision, and shall continue the discussion of the details to a later meeting prior to discussing any other details pertaining to roads or lots.

(B) Scattered or Premature Development. The Board may deny an application if it determines that the proposed development would be scattered or premature. If the Board is considering denial of an application on this ground, it shall first determine, by majority vote, that the application, if approved, would be scattered or premature by virtue of one or more the reasons listed in §1.01(A) and RSA 674:36,II(a). In making this determination, the Board shall specify the exact nature of its concerns. Prior to denying an application on this basis, the Board shall provide the applicant, if the applicant is agreeable, with sufficient time to determine whether or not there is any reasonable way to modify the proposal or to directly mitigate the adverse impacts in a manner such that the proposal would no longer be considered scattered or premature.

2.17 DECISION. Pursuant to RSA 676:4,I(c), the Board shall issue a decision within 90 days of application acceptance, subject to time extensions as per RSA 676:4,I(f). Applications, which are not accepted, require no decision. The Board must approve, conditionally approve, or disapprove the application as follows:

(A) Approval. The Board shall grant approval to an application when it fully complies with the standards and processes of this Regulation and other applicable law.

(B) Conditional Approval. The Board may grant conditional approval to an application when minor additional action by the applicant will bring the application into full compliance for approval. This may include the posting of financial securities, payment of fees, minor changes in design, and other matters, subject to the requirements of §2.17(C)(2), and RSA 676:4,I(i). These statutory requirements are summarized as follows:

(1) Minor plan changes, whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or

(2) Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or

(3) Conditions with regard to the applicant's possession of permits and approvals granted by other governmental units.

(C) Disapproval. The Board shall disapprove an application when it fails to comply with the standards and/or procedures of this Regulation, for failure to meet reasonable deadlines established by the Board, or for failure to pay fees.

(1) If the Board includes the phrase, "without prejudice" in the motion to disapprove, it signifies that the application was denied solely for procedural reasons, and that it may be re-submitted to the Board at a later date without design changes, but shall be subject to the codes in effect at the time of the new application. Applications disapproved without this stipulation shall not be considered again by the Board unless the applicant demonstrates that there have been design changes or changes in regulations affecting the application.

(2) Conditional Approvals shall be valid for a period of not more than six months. If the conditions of the approval have not been satisfied within this time, the conditional approval shall automatically lapse. The Planning Board may grant a single six-month extension to accommodate unusual circumstances, but the applicant is required to provide a written request for extension to the Board before the expiration date. The Board shall consider the request at its next regular meeting, and such action shall not require a public hearing.

2.18 NOTICE OF DECISION. As required by RSA 676:3, within 72 hours of the meeting the Board shall issue a Notice of Decision which states the final decision reached by the Board regarding the application.

(A) In the case of a conditional approval, the Notice of Decision shall state all conditions to be met for final approval.

(1) In the event that the conditions are satisfied, the Board shall issue a supplemental Notice of Decision stating that the application is approved since all conditions have been satisfied, and shall sign and record the plat(s) if applicable.

(2) In the event that the conditions are not satisfied, the Board shall issue a supplemental Notice of Decision stating that the application is denied for failure to comply with the conditions of approval in a timely manner.

(B) In the case of a disapproval, the Notice of Decision shall state the reasons for denial as required by RSA 676:4, I(h) and RSA 676:3, I.

2.19 APPEALS. Any person aggrieved by any decision made in the course of applications pursuant to this chapter may appeal as follows:

(A) Decisions by the Planning Board based solely upon interpretation of the Zoning Ordinance may be appealed to the Zoning Board of Adjustment or Rockingham Superior Court per the provisions of RSA 676:5, III. Appeals to the ZBA must be filed within 20 days, and appeals made to Superior Court must be filed within 30 days.

(B) All other decisions by the Planning Board may be appealed to Rockingham County Superior Court per the provisions of RSA 677:15. There is a 30-day time limit in which to make an appeal.

(C) The time limit for appeals begins on the day on which the Planning Board decision is filed and first becomes available for public inspection. Per §2.18, this should occur within 72 hours of the Board's decision.

2.20 REVOCATION OF APPROVAL. The Board may act to revoke an approval per the requirements of RSA 676:4-a.